IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4546 of 1999

to

FIRST APPEAL No 4548 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UNITED INDIA INSURANCE CO LTD
Versus
MANORAMABEN GOVINDBHAI

Appearance:
MR PV NANAVATI for Appellant
MR VIBHUTI NANAVATI for Appellant
NOTICE NOT RECD BACK for Respondent No. 1
RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.C.PATEL

Date of decision: 13/08/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard the learned counsel for the appellant. Opponents are absent though served.

2. These are appeals under Section 173 of the Motor Vehicles Act, 1988, at the instance of the insurer of the vehicle which is allegedly involved in the accident in question.

3. The appellant challenges herein the orders below Exh.7 passed by the Tribunal under Section 140 of the said Act in Motor Accident Claim Petitions No.1102 of 1995, 1235 of 1995 and 1198 of 1995. Obviously, these awards are in the nature of interim awards which are subject to adjustment against the final awards which may be passed in the Main Claim Petitions viz. Motor Accident Claim Petitions No.1102 of 1995, 1235 of 1995 and 1198 of 1995, pending before the Motor Accident Claims Tribunal (Main), Rajkot. This principle is established by the Supreme Court decision in the case of The Oriental Insurance Co. Ltd. vs. Hansrajbhai V. Kodala reported in 2001 (4) JT 477.

4. The original claimants shall, however, file an undertaking before the Tribunal within four weeks of the service of the order on the claimants to the effect that the main claim petitions shall not be abandoned, shall not be withdrawn and shall not be permitted to be dismissed for default or for any other cause, and that the claimants shall obtain a decision on merits in the said claim petitions. The amount awarded under the impugned orders shall be adjusted against the final award in the main claim petitions.

5. On the said undertaking being filed, the amount of the impugned awards may be withdrawn by the original claimants on furnishing security to the satisfaction of the Tribunal.

6. Subject to the observations and directions hereinabove, the above appeals are dismissed with no order as to costs.

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